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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,313	12/05/2001	Tomoaki Itoh	5077-000078	9894

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EXAMINER

WILDER, PETER C

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/006,313

Applicant(s)

ITOH ET AL.

Examiner

Peter C. Wilder

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/5/01 and 5/21/04</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention Rejaie et al. "Architectural Considerations for Playback of Quality Adaptive Video over the Internet".

Referring to claim 1, Rejaie teaches a transmission rate control method controlling a transmission rate (Page 206 Column 2 paragraph starting with "With hierarchical..." teaches adjusting the number of layers of a data output for version of a stream based on bandwidth, Page 207 first column paragraph starting with "End-to-end..." and page 208 figure 1 teach a Rate Adaptation module that monitors the transmission rate) by dynamically switching between at least two sets (Page 206 Column 2 paragraph starting with "In an alternative..." teaches a video stream is made up of data and one set would be one combination of data) of video data encoded from at least one viewpoint of encoding rate variation, [motion priority] and image quality priority] (Page 206 second Column paragraph starting with "There are several..." and

the following paragraph teach the concept of not being able to change the output rate of the encoder once a file has been stored, and in the following paragraph teaches if the versions are pre-stored then the server switches to different quality versions which refer to the different encoding rates) in accordance with a change of an available transmission bandwidth (Page 206 Column 2 paragraph starting with "In an alternative..." teaches switching the output stream as the bandwidth changes).

Referring to claim 2, corresponding to claim 1, Rejaie teaches the transmission comprising a step of preparing a video file including said at least two sets of video data, created beforehand based on the same content (Page 206 column 2 paragraph starting with "In an alternative..." teaches having many different versions of the same program stored on a server).

Referring to claim 3, corresponding to claim 1, Rajaie teaches the transmission rate control method wherein said preparation step comprises a step of recording at least two video data portions, one of which is to be sent at a certain time, as one access unit into the video file (Page 206 column 2 paragraph starting with "In an alternative..." teaches having many different versions of the same program stored on a server, so the video data portions have to be recorded, and Page 204 second column paragraph starting with "Our target environment.." teaches transmitting video and by transmitting a video file you are allowing access ).

Referring to claim 4, Rejaie teaches all the limitations of claim 2, and wherein the preparation step comprises a step of recording a plurality of video data sets having different degrees of error robustness in the video file (Page 207 first column paragraph starting with "In the context..." teaches that the quality of video is based on the number of layers in the video and lower level layers have less quality than higher level layers. Page 207 and column 2 paragraph starting with "Error control..." teaches packets from a base layer have highest priority over other layers, and the following paragraph teaches that the error correction is connected to the available bandwidth; This means that all the layers in the stream have at least some error protection, thus a high quality stream with many extra layers or data would have more error protection over a lower quality stream; Page 206 column 2 paragraph starting with "There are several..." teaches having many different versions of the same program pre-stored on a server and error robustness has to be encoded into the signal before being transmitted).

Referring to claim 5, corresponding to claim 1, Rejaie teaches the transmission comprising the steps of: estimating available transmission bandwidth (Page 206 Column 2 paragraph starting with "In the alternative..." teaches switching streams as bandwidth changes with requires some type of bandwidth estimation to be occurring);

selecting one of said at least two sets of video data in accordance with the available transmission bandwidth (Page 206 Column 2 paragraph starting with "In the alternative..." teaches switching streams so a selection of a new stream would have to

occur); and sending the selected video data (Page 206 Column 2 paragraph starting with "In the alternative..." teaches sending the new stream).

Referring to claim 7, corresponding to claim 1, Rejaie teaches the transmission rate control method comprising a step of selecting video data after switching based on encoding parameters of the video data before switching (Page 206 Column 2 paragraph starting with "There are several..." teaches pre-encoded stored streams and the following paragraph teaches switching to a different stream because of bandwidth changes thus the new selected stream would be selected based on the encoding rate).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rejaie et al. "Architectural Considerations for Playback of Quality Adaptive Video over the Internet" in view of Kalra et al. (U.S. 5953506).

Referring to claim 6, Rejaie teaches all the limitations of claim 1, but fails to teach the steps of: receiving a image quality priority instruction from a user;

selecting one of said at least two sets of video data in accordance with the image quality priority instruction.

Kalra teaches the steps of: receiving a image quality priority instruction from a user (Column 15 lines 66-67 and Column 16 lines 1-7 and Figure 16A2 teach a user making a image quality instruction);

selecting one of said at least two sets of video data in accordance with the image quality priority instruction (Figure 16A2 teaches 5 different image quality levels to choose from which includes receiving no video at all).

At the time the invention was made it would have been obvious for one skilled in the art to modify the adjusting output video stream based on bandwidth with the user image quality instruction of Kalra for the purpose of allowing the user to increase the resolution of certain characteristics, such as sound, at the expense of other characteristics, such as video (Column 2 lines 46-49, Kalra)


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. Wilder whose telephone number is 571-272-2826. The examiner can normally be reached on 8 AM - 4PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grand can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Relevant art: Real Video Content Creation Guide, U.S. 6594699 B1, U.S. 6014694



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